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A Gujarat Victim Compensation Scheme 2019: A Critical Analysis

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1. Introduction

A “victim” is a person who has suffered harm like “physical” or “emotional”, a kind of damage, or loss of income economically according to crime. A ‘victim” is defined under Section -2(p) of the Gujarat Victim Compensation Scheme, 2019 which says it means any person who has suffered physical or mental Injury as the result of any offence specified in the schedule appended to the scheme including offences covered under Section 304 B Section 326 A and Section 498 A of the Indian Penal Code 1860 for women (in case of physical injury of the nature specified in the schedule) including the attempt and abetment.[1]

Generally, it is defined as a person who has survived for a long time or something happened to him or her with a kind of intention that is bad. He or she has been selected to target and create a crime against him or her. Those people have been cheated out of money according to scams. This kind of “victim” refers to a person who has suffered from injuries mentally and physically. The person has to suffer from an imbalance emotionally. Those people being victimized can take help from the law for justice in court. Victims can happen many times those are sexually harassed, Victims by incidents of rape, unnecessary touching by someone or a group of people, harassment of sexual, if someone notices another person like stalking according to their behavior, physical assault, and violence domestically, etc. “Victim” means who has been victimized and suffered from harm, injuries like physical and emotional collectively or individually. The people have rights according to the level of the victim they can adopt the law to help. To be right or have proper implementation of the law the people have to take the proper justice. “Victims” should be treated according to compensation and which is related to their “dignity”. The kind of mechanism applied when it should be necessary for victimized people. The process of compensation is applied by the justification that it is actually required according to their family members. Compensation schemes are a kind of money that is given to a victim or someone's family member due to victimization. The schemes of compensation can be various types those can be including “basic pay”, “Commission”, pay according to overtime, “Bonus”, Share the profit, Options according to stocks, and Any types of allowances regarding the house, have to include some benefits regarding the policy insurances, medical insurances, Retirement or pension-related benefits can be included. The compensation helps to serve the people according to vacancies regarding jobs which can be needed according to family members. The state of

[1] Gujarat Victim Compensation Scheme,2019

government according to states and central who have to prepare schemes for victimized people. It helps people according to the level of funds they can collect. It helps those people who really want rehabilitation according to their history regarding suffering. This kind of compensation is granted by the Government for victimized people. It can be included in the cost of medical, required cost according to the process of counseling within their budget limitation. The Gujarat Victim Compensation Scheme provides the compensation to victims of crime and rehabilitates the victim.

2. Statement of Research Problem

The finding from this study is to attempt to address the absence of certain objectives and measures through thorough analysis and assessment under the Gujarat Victim Compensation Scheme, 2019.

The effectiveness of the current compensation which is provided in the schedule in the scheme is insufficient and categories of the offences must be examined and evaluated, even though victim compensation is a crucial component of meeting the needs of those who have been harmed or lost something as a result of crimes.

There is a need to change the definition of the victim provided under the Gujarat Victim Compensation Scheme 2019. There are certain categories of victims who are not included under this scheme.

There is also a need to look at the challenges and obstacles victims encounter when trying to access compensation schemes. By addressing these problems, this study hopes to advance our knowledge of the victim compensation systems under this scheme and offer new perspectives on the category of the victim and to enhance the efficiency and fairness of the programs to better meet the requirements of victims.

3. Research Objective

It is essential to identify its limitation/gap and propose reforms that ensure inclusivity and equitable support for all victims. There is also determination of the victims of crime who are not included by the state government. There is to examine the implementation of the Gujarat Victim Compensation scheme in terms of procedures, timelines, and accessibility for victims of crime and to identify the challenges and barriers faced by victims in accessing compensation, including

administrative delays, lack of legal support, or procedural hurdles.To analyze the role of legal aid authorities, police, and judiciary in facilitating the compensation process Gujarat Victim Compensation Scheme 2019. It is also to recommend measures for improving the efficiency, reach, and effectiveness of the scheme in ensuring justice and support for victims.

4. Research Questions

- What is the difference between the Compensation of Victims under Criminal Law and the Gujarat Victim Compensation Scheme, 2019?
- What is the scope of the 'Victim' under the Gujarat Victim Compensation Scheme, 2019?
- Is the definition of 'Victim' provided under the Gujarat Victim Compensation Scheme, 2019 covers all the victims of crime and incident?
- Should the compensation of scheduled categories of offence provided under the Gujarat Victim Compensation Scheme,2019 be expanded?
- Are the more offences should have been included in the scheduled offence under Gujarat Victim Compensation Scheme, 2019 like minor offenses, custodial death, police atrocities, and death caused by animals ?
- Will the fixed amount mentioned in the Scheme is not sufficient to cover for rehabilitation of the victim under Gujarat Victim Compensation Scheme, 2019?
- What are the gaps under the Gujarat Victim Compensation Scheme 2019, in respect to the efficacy, implementation challenges and effect on victims?
- What are the duties of the state to provide the compensation to the victims or their dependents of any offence/incident/accident?

5. Hypothesis

1. The definition of the victim under current legislation framework is insufficient to cover all the victims.
2. There is a limited schedule of categories of crime under the Gujarat Victim compensation Scheme 2019.
3. The fixed amount under Gujarat's 2019 scheme is insufficient for victim rehabilitation.
4. The implementation and effect of the Compensation to Victims under this scheme has significantly improved access to justice and financial relief for victims of crime in Gujarat.
5. A gap between law and practice limits victims' access to justice.

6. Research Methodology

Doctrinal legal research that Examine the Statutes, Current Laws, Judicial Decisions concerning the rights of the Victim, books and scholarly works. Critical analysis of the scheme, underlying government policies influencing the definition of ideal victims.

For justifying the research question researcher will do analysis of the data collected through available reports and data.

7. Literature Review

1. **A Study of Victim Compensation in India with Emphasis on Judicial Activism**[2]

   This article examines the legal framework, judicial interventions, and systemic challenges surrounding victim compensation in India and investigates their implications for victims rights and compensation mechanism. Even though legal measures and judicial initiatives have broadened victim rights and access to compensation, systemic issues like bureaucratic delays and varying practices among states impede the effective execution of victim compensation in India. There is a requirement for a proper assessment of the efficacy of judicial activism in ensuring uniform enforcement and timely release of the victim compensation among various states in India.

2. **Rehabilitation of Rape Survivors: Policy, Trends, and Challenges in India.**[3]

   This study is exploring the rehabilitation process for rape victims in India, assess the effectiveness of existing legal provisions and compensation schemes, and propose enhancements for victim support. Although there is monetary compensation available for rape victims, the process of implementing it requires improvement, and there should be a greater focus on providing comprehensive rehabilitation support for the victims. In India, don't have enough studies looking at how well rehabilitation programs for rape survivors work over time. This includes understanding how these survivors are faring emotionally, socially, and financially after going through these programs.

3. **Reported snakebite mortality and state compensation payments in Madhya Pradesh, India, from 2020 to 2022.**[4]

[2] M. A.Khan, " A Study of Victim Compensation in India with Emphasis on Judicial Activism" *Issue 1 Int'l JL Mgmt. & Human.*, *7*, 1593(2024)

[3] B. Nagar & N. K Upadhyay, " Rehabilitation of Rape Survivors: Policy, Trends and Challenges in India" *Indian JL & Just.*, *15*, 301(2024)

This study examines the frequency and economic implications of compensation for snakebite fatalities in Madhya Pradesh, as well as to investigate the factors that contribute to compensation claims.The mortality rate from snakebites presents a considerable economic and social challenge in Madhya Pradesh. Implementing preventative measures and closely monitoring compensation rates can aid in decreasing snakebite fatalities and enhancing the effectiveness of intervention.

4. **A Critical Evaluation of Victim Compensation Scheme in India: Past, Present and Future Insights**[5]

   This study analyzes the development of victim compensation in India and the challenges encountered by the system are evaluated. There is a need to improve the India Victim Compensation mechanism and recommends several suggestions to its effectiveness to overcome the problem faced by the victims.

5. **Victim Compensation-Why Not a Fundamental Right?**[6]

   This study examines victim compensation should be considered a fundamental right. It's important to look at the physical, psychological, and financial difficulties that victims of violent crimes encounter. Additionally, we should suggest ways to enhance victim compensation and rehabilitation systems.Incorporating victim compensation as a basic right and establishing improved rehabilitation systems are crucial to avoid the 'second injury' and guarantee justice for victims of violent crimes.

6. **Vanishing Themes of Indian Victim Compensation Law: An Exploration**[7]

   This study is examine the limitations and inconsistencies in the victim compensation laws in India, with a particular focus on the amendments made to the Criminal Procedure Code (CrPC) in 2008.The study concludes that although there has been some advancement in victim compensation laws, the inconsistent application and gaps in these laws hinder their effectiveness, highlighting the need for further reforms to ensure fair justice.

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[4]Kadam. P., Patel, B. Gopalakrishnan, M. Sirur, F. M. Bharti, O. K. Agrawal, A. & Ainsworth, " Reported snakebite mortality and state compensation payments in Madhya Pradesh, India, from 2020 to 2022" *Transactions of The Royal Society of Tropical Medicine and Hygiene*, trae045.(2024)

[5] N. Srivastava, " A Critical Evaluation of Victim Compensation Scheme in India: Past, Present and Future Insights" *Jus Corpus LJ, 4* 504 (2023).

[6] S. B Gudala," Victim Compensation-Why Not a Fundamental Right?" *Jus Corpus LJ 4* 416(2023)

[7] U. Gulzar, " Vanishing Themes of Indian Victim Compensation Law: An Exploration" *Journal of Victimology and Victim Justice 2*(2) 226-235(2019)

7. **Comparative Analysis of victim Compensation Scheme of State of Gujarat and Bihar**[8]

   This study examines the victim compensation scheme of Gujarat and Bihar and determines mechanism of victim compensation and kinds of victims eligible for compensation in both the states. This study also inquired whether any separate class of victim is classified by the legislation of the states or not and also analyzed the range of compensation provided in different compensation schemes.

8. **Reparative Justice to Victims Under Criminal Justice System in India**[9]

   This paper is a study for the better understanding of existing laws of reparative justice in India's criminal justice system. This study examines the implementation of the victim compensation scheme referring to the publicized data of the National legal Services Authority. It also discusses silent aspects like trauma counselling for victims, establishment of victim friendly judicial system, establishing of a victim friendly society etc through landmark judicial pronouncement by Indian Judiciary has been playing pivotal roles from time to time. Reparative Justice connotes reparation of loss suffered by victims resulting from an incident of crime.

8. Tentative Chapterisation plan

1. Introduction
   1.1 Historical Perspective and Development of Compensation of Law
   1.2 Literature Review
2. Legislative Framework for Victim Compensation In India
   2.1 Legislation in India dealing With Compensation to Victim of Crime
   2.2 India Legal Frame Work
   2.3 Compensation to Victims of Crime Under the Constitution of India
3. Judicial Approach to Victim Compensation
   3.1 Compensation Jurisprudence from Judicial Perspective
   3.2 A Judgmental Perspective

[8]Suryansh Singh & Aryan Garg, "Comparative Analysis of Victim Compensation Scheme of State of Gujarat and Bihar" 5 issue 1 Indian J.L. & Legal Rsch (2023)
[9]BonaniGoswami, " Reparative Justice to Victims under Criminal Justice System in India" Law Colloquy Journal of Legal Studies" Volume 1, Issue 1,(01/ 2021)

4. Critical Analysis of the Gujarat Victim Compensation Scheme 2019
   4.1 Key Provisions of the Scheme
   4.2 Procedure and Implementation under Scheme
   4.3 Judicial Trends and Case Studies (High Court of Gujarat)
   4.4 Gaps, Issues, and challenges in the Scheme
5. Conclusion and Recommendation
   5.1 Summary of Finding
   5.2 Limitation of the Study
   5.3 Recommendation for Reform
   5.4 Concluding Remarks

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